

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DANIEL KANE, JR., CHARLES	:	
MACHADIO, ROGER MARINO, MYRA	:	
GORDON, ANDREW ROY, and VINCENT	:	
PACIFICO, as trustees of the United Teamster	:	
Fund and as Trustees of the United Teamer	:	17-CV-9487 (VSB)
Pension Fund “A”,	:	
	:	<u>ORDER</u>
Plaintiffs,	:	
	:	
- against -	:	
	:	
NATIONAL FARM WHOLESALE FRUIT &	:	
VEGETABLE CORP.,	:	
	:	
Defendant.	:	
-----X	:	

VERNON S. BRODERICK, United States District Judge:

Plaintiffs, trustees of the United Teamster Fund and of the United Teamster Pension Fund “A” (collectively, the “Fund”), brought this action against Defendant National Farm Wholesale Fruit & Vegetable Corp. (“Defendant” or “National Farm”) for unpaid partial withdrawal liability under the Employment Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. § 1001 *et seq.*, as amended by the Multiemployer Pension Plan Amendments Act of 1980 (“MPPAA”), 29 U.S.C. §§ 1381–1453.

On December 6, 2019, Plaintiffs moved for summary judgment against National Farm, which I granted on January 14, 2022. (Docs. 46 ¶¶ 21–22; 36.) On January 18, 2022, the Clerk of the Court entered the Judgment in favor of the Fund and against National Farm. (Doc. 37.)

On February 11, 2022, Plaintiffs filed the present Motion for Attorneys’ Fees and Costs, supported by a memorandum of law and the Declaration of Marc D. Braverman (“Braverman

Decl.”), to which is attached a billing invoice from Plaintiffs’ counsel, Dealy Silberstein & Braverman, LLP. (Doc. Nos. 44, 45, 46, 46-1.) On February 14, 2022, National Farm filed a memorandum of law in opposition to the motion, and the affidavit of Frank M. Graziadei (“Graziadei Decl.”). (Docs. 47, 48.) That same day, Plaintiffs filed the Reply Declaration of Marc D. Braverman. (Doc. 49 (“Braverman Reply Decl.”)). I referred the motion to Magistrate Judge Sarah L. Cave for a Report and Recommendation. (Doc. 40.)

On August 5, 2022, Magistrate Judge Cave issued a thorough 12-page Report and Recommendation recommending that “the Motion be GRANTED IN PART and DENIED IN PART and Plaintiffs be awarded \$15,466.50, consisting of \$15,042.75 in attorneys’ fees and \$423.75 in costs.” (Doc. 50 at 2.) Neither party has filed any objections to the Report and Recommendation.

A district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). “To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985).


Although the Report and Recommendation explicitly provided that “[t]he parties shall have fourteen (14) days . . . from service of this Report and Recommendation to file written objections pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure” and “[t]he failure to object within fourteen (14) days will result in a waiver of objections and will preclude appellate review,” (Doc. 50, at 12), neither party filed an objection or requested additional time to do so. As such, I have reviewed Magistrate Judge Cave’s detailed

and well-reasoned Report and Recommendation for clear error and, after careful review, find none. I therefore ADOPT the Report and Recommendation in its entirety.

The Clerk's Office is respectfully directed to terminate any open motions, enter judgment in accordance with this Order, and close the case.

SO ORDERED.

Dated: October 13, 2023
New York, New York


Vernon S. Broderick
United States District Judge